



**To the Honorable Council
City of Norfolk, Virginia**

January 13, 2015

From: Darrell R. Crittendon, Director
Recreation, Parks & Open Space

Subject: Lease Agreement for Ocean
View Little League at Ocean View
Elementary fields

Reviewed:

Wynter C. Benda, Deputy City Manager

Ward/Superward: Ward 1

Approved:

Marcus D. Jones, City Manager

Item Number:

PH-1

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Department of Recreation, Parks & Open Space

III. **Description**

This is an ordinance to approve a lease agreement between the City of Norfolk and Ocean View Little League for the use of the ball fields at Ocean View Elementary School.

IV. **Analysis**

- Ocean View Little League's use of the Ocean View Elementary School fields may soon be impacted by the construction of a new school onsite. Until this school construction begins, Ocean View Little League seeks to extend their current lease which expired on December 31, 2014 for the Ocean View Elementary School fields.
- Ocean View Little League is responsible for the upkeep and maintenance of the ball fields at Ocean View Elementary School.
- An ordinance for a lease with the City of Norfolk is now being requested in order for them to continue to host league practices and games at this site.

V. **Financial Impact**

There is no financial impact of the approval of this ordinance and lease agreement. The league will agree to pay the City an annual rental fee of (\$1.00) One Dollar.

VI. Environmental

The project will provide improvement to the fields at Ocean View Elementary School and provide athletic fields for the Ocean View Little League to host games and practices.

VII. Community Outreach/Notification

No public notification for this agenda item was conducted.

VIII. Board/Commission Action

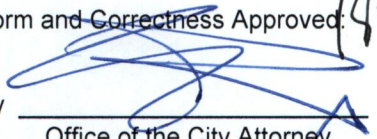
N/A

IX. Coordination/Outreach


This letter has been coordinated with the Department of Recreation, Parks & Open Space and the City Attorney's Office.

11/24/2014mr

Form and Correctness Approved: 

By 
Office of the City Attorney

Contents Approved:

By 
DEPT. Recreation, Parks and Open Space

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE APPROVING A LEASE AGREEMENT WITH OCEAN VIEW
LITTLE LEAGUE FOR THE USE OF CERTAIN PROPERTY KNOWN AS
"OCEAN VIEW LITTLE LEAGUE BALL FIELDS".

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the Lease Agreement between the City of Norfolk, as Lessor, and Ocean View Little League ("OVLL"), as Lessee, a copy of which is attached hereto as Exhibit A, by which the City of Norfolk leases to OVLL certain property owned by the City known as Ocean View Little League Ball Fields, is hereby approved.

Section 2:- That the City Manager is authorized to execute the Lease Agreement for and on behalf of the City, and to do all things necessary and proper to carry out its terms.

Section 3:- That the City Manager is further authorized to correct, amend or revise the Lease Agreement as he may deem advisable in order to carry out the intent of the Council.

Section 4:- That this ordinance shall be in effect from and after 30 days from the date of its adoption.

**AGREEMENT OF LEASE
CITY OF NORFOLK
AND
OCEAN VIEW LITTLE LEAGUE**

This **AGREEMENT OF LEASE** ("Agreement"), made this ____ day of January, 2015, between the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia, hereinafter referred to as the "City," and **OCEAN VIEW LITTLE LEAGUE**, with an address of P.O. Box 8254, Norfolk, Virginia 23503-0254, hereinafter referred to as the "League."

WHEREAS, the League provides recreational services on that certain property containing 6.25 acres as shown on the plat attached hereto entitled "Ocean View Little League Ball Fields (or the "ball fields") as appropriate to the needs of the Norfolk youth community on an annual basis and recognizing that concession rights are a part of ensuring the ability of the League to deliver valuable services to and for the benefit of Norfolk youth; and

WHEREAS, the League, by its management, use of its funds, and provision of maintenance services to the ball fields, provides a service to the youth of Norfolk in the truest sense of community partnership; therefore,

WITNESSETH:

That in consideration of the mutual covenants contained herein, the City grants to the League and the League accepts the non-exclusive right and privilege to manage and maintain the ball field, and operate a temporary, pre-packaged foods only concessions operation out of the Conex box installed by the City and to use any storage

room adjacent to any such concession area, and auxiliary storage structure in such parts of the Ocean View Elementary School field, property owned by the City of Norfolk, as shall be designated as leased premises hereunder (see Exhibit A for leased area) by the City's Director of Recreation, Parks and Open Space hereunder referred to as the "Director," and the City and League agree that this grant of concession is made by the City and accepted by the League on the following terms and conditions:

1. **TERM.** This Agreement shall be in effect from January 1, 2015 to December 31, 2015 (or at the end of the spring/fall season - whichever comes first). If by chance school construction commences during the season, the OVLL will have 30 days to clear the site and the Department of Recreation, Parks & Open Space will provide fields within their current inventory for OVLL use so that they may finish out the season.

In the event of breach or default as to any of the terms of this Agreement by either party, this Agreement may be terminated by giving the breaching or defaulting party thirty (30) days written notice of such termination.

Either party may terminate this Agreement, without breach or default, by providing the other party one hundred twenty (120) days written notice of such termination.

During any Agreement term, the leased property shall be used by the League for approved recreational purposes only; and, failure to use the property for approved recreational purposes shall void this Agreement.

2. **PAYMENT TO CITY.** The League agrees to pay to the City any and all rental fees associated with the use of other City fields (outside of Ocean View Little League). The fees shall be made payable to the "Norfolk City Treasurer" and delivered to the Lakewood Athletic Office at 1612 Willow Wood Drive, Norfolk, VA 23509, by the due dates set by the Lakewood Athletic Office. The City reserves the right to examine League's financial books and records concerning the concession operation, upon written request delivered to the League.

The League agrees that it, nor any person or entity acting in its behalf or on any property the subject of this lease while such property is under the custody and control of the League, will not charge or allow to be charged any admission fee or charge whatsoever for the public to attend any event located on the leased property or ball fields.

3. **OBSERVATIONS.** The City's duly authorized agent, the Director or his designee, shall have the right to observe the League's operations at any reasonable time and as often as City deems necessary.

4. **EQUIPMENT.** The League shall operate only in such parts of Ocean View Little League as shall be designated as leased premises (including concessions operation areas [out of Conex box purchased by the City] and any storage room adjacent to any such concession area, and auxiliary storage structure), shown on **Exhibit A** attached hereto, by Director, and the City shall not be under any obligation to furnish any equipment for the concession operations. The Conex box installed for concession is a temporary structure with no running water or equipment. The concession should only

consist of prepackaged food with no food preparation on site that would require any fryers, stoves, ovens, etc. The upkeep and maintenance of the Conex box is the sole responsibility of the League.

The League agrees to be responsible, at its own cost and expense, for any additional construction, and maintenance of any building or structure it occupies or uses, with all plans for any such building or structure receiving prior approval in writing by the Director. It is expressly understood and agreed that any building or structure and all physical improvements or additions made by the League or at its direction shall be the property of, and solely owned by, the City of Norfolk from the time of completion, except that any equipment that is not fixed to the building or structure will remain the property of the League. Any such equipment installed by League shall be at the expense of the League. The League agrees to maintain such equipment in good working order by following standard maintenance procedures and to surrender any City equipment, in good condition, normal wear and tear excepted, to the City at the conclusion of this Agreement.

The League shall have the right to construct physical improvements on the property subject to the plans for such construction having received prior approval in writing by the Director, or his designee, and subject to said improvements being in conformance with all building codes of the City of Norfolk.

The League shall be responsible for the maintenance of the grounds, including the ball fields, and any physical improvements on the subject property, whether constructed by the League or the City. The City will provide basic

maintenance (grass cutting, dirt, etc.).

Upon the expiration or termination of this Agreement by either party, the League shall have the right to remove any physical improvements which the League has constructed on the property. The removal shall be at the League's expense and the League shall repair any damages caused to the City's property by the removal of such improvements.

The League agrees to provide water at his own cost and expense. The City will cover all other utilities related to the buildings or structures, and ball fields and related structures found thereon.

5. **FOOD, DRINKS AND ARTICLES SOLD.** Before the League shall offer for sale any food, drink or other articles, it shall first submit to the Director a description of such food, drink or other articles proposed to be sold and the price proposed to be charged therefore and obtain from the Director prior approval of the sale thereof and of the price to be charged therefore. The League shall not increase any selling price the Director has approved without first obtaining the Director's approval. Because of the nature of the temporary concession unit, the use of any fryers, stoves, or ovens is prohibited. All items should be pre-packaged.

6. **SERVICE AND GENERAL CONDITIONS.** The League shall keep the concession stand open at such times as are approved by the Director.

The League shall provide sufficient competent and courteous help to adequately serve the patrons. The League shall operate the concession stand so that the service, quality of food and soft drinks shall be to the satisfaction of the Director.

No vehicles will be allowed to be on the park properties except as allowed by specific permit issued by the Director pursuant to City Code.

Any use of the ball fields by the League will be provided for by the Director under Article 4, Section 30-92 of the City Code.

The League shall file a report with the Director on or before December 31st of each year listing the officers of the League and setting forth a list of the programs conducted by the League on the subject property for the previous year. Report is to include actual usage of all fields for practice and game play, number of users and demographics to include age, sex, race, where the users live, specific services and facility conditions.

The field is also used during the soccer/football season and arrangements will be made by the City to ensure fair shared usage during those times.

7. **INSURANCE.** The League, at his expense, shall take out and keep in full force and effect, with a company authorized to do business in the Commonwealth of Virginia, public liability and products liability insurance, fire and property insurance, insuring the League and City in the amount of One Million Dollars (\$1,000,000.00) CSL for the death of or injury to any person or persons and for damage to or destruction of property, against liability from any and all claims, actions and suits that may be asserted or brought against the League, the League's agents and employees and/or City, the City's officers, employees and agents. Evidence of such insurance naming the City, and its officers, employees and agents as additional insureds shall first be

approved by the City Attorney and filed with the Director within fifteen (15) days after the commencement of this Agreement and annually thereafter.

8. **HEALTH CONDITIONS.** The League will keep clean the areas adjacent to the concession stand. The League will provide trash receptacles approved by the City. The League shall comply with all applicable State statutes and City ordinances relating to food and food establishments and all applicable requirements of the State and City health authorities.

The League shall also supply, at its own cost and expense, a minimum of four (4) port-a-johns placed at various locations approved by the City during the season.

9. **LICENSES AND TAXES.** The League shall obtain and keep in full force and effect, at its own cost and expense, all necessary licenses and shall pay all taxes assessed against said concession operation, and any taxes assessed against the value of the League's leasehold interest hereunder.

10. **DOMESTIC CORPORATION.** The League, by executing this Agreement, certifies that it is authorized to transact business in Virginia as a domestic or foreign business entity as required by the State Corporation Commission, or as otherwise required by law. The League further certifies that it will maintain such status during the term of this Agreement. This Agreement is voidable at the option of the City if, at the time the League entered into this Agreement, it was not authorized to transact business in Virginia as a domestic or foreign business entity; or, having qualified to enter into this Agreement fails to maintain such status during its term.

11. **ASSIGNMENT AND SUBLETTING.** The League shall not assign this Agreement, or any part thereof, or sublet without first obtaining the written permission of the Director. Any consent by the Director to any act of assignment or sublet shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the League or any assignees or sub lessees of the League to obtain from the Director his consent to any other assignment or sublet, or as modifying or limiting the rights of City under the foregoing covenant by the League not to assign or sublet without first obtaining the written permission of the Director for it to do so. Any violation of any provision of this Agreement of Lease by any assignee or sub lessee shall be deemed a violation of such provision by the League, it being the intention of the parties thereto that the League shall assume and be liable to City for any and all assignees or sub lessees. If this Agreement of Lease or any part thereof is assigned or sublet, the City may collect payments due it as provided herein from the assignee or sub lessee.

12. **CANCELLATION.** Upon the failure of the League to operate the concession, the ball fields or to make to the City when due the payments provided for herein, or to comply with any of the provisions of this Agreement of Lease, City shall have the right to cancel this Agreement of Lease and terminate this grant of concession upon giving to the League ten (10) days notice in writing of its intention to do so. The parties agree that cancellation of this Agreement for any reason shall not affect the City's rights, title and interest as owner of the building and equipment nor affect the

League's obligation for the full rental fees payable to the City for the term of this Agreement.

13. **POSSESSION OF PREMISES UPON DEFAULT, ETC.** The parties hereto agree that this Agreement is made upon condition that if the League shall fail to operate the facilities herein as required, or if the League shall fail or neglect to do or perform or observe any of the covenants contained herein, or if the League shall be declared bankrupt or insolvent according to law, or if any assignment of its property shall be made for the benefit of creditors, the City may immediately or at any time thereafter, without demand or notice, enter into and upon the leased premises and repossess the same. The City may expel the League and remove the League's effects, if any, forcibly if necessary and change the entry processes to prevent the League's re-entry. Such entry by the City shall not constitute a trespass or forcible entry or detainer nor shall it cause a forfeiture of any other remedy which otherwise might be used for arrears of rent or breach of any covenant mentioned herein.

14. **NOTICE.** Notice by the League shall be given to the City at the office of the Director, Recreation, Parks and Open Space, 501 Boush Street, Norfolk, VA, 23510. Notice shall be given to the League at P.O. Box 8132, Norfolk, Virginia, 23503.

15. **COMPLIANCE WITH IMMIGRATION LAW.** At all times during which any term of this Agreement is in effect, the League does not and shall not knowingly employ any unauthorized alien. For purposes of this section, an "unauthorized alien" shall mean any alien who is neither lawfully admitted for permanent residence in the United States nor authorized to be employed either by Title

8, Section 1324a of the United states Code or the U. S. Attorney General.

IN WITNESS WHEREOF, the parties hereto have executed and sealed this Agreement as of the day and year first above written.

CITY OF NORFOLK

By: _____
Marcus Jones, City Manager

Attest:

City Clerk

OCEAN VIEW LITTLE LEAGUE

By: _____

Title: _____

Contents Approved:

 - 12/15/14

Darrell R. Crittendon - Director,
Department of Recreation, Parks and Open Space

**Approved as to Form and
Correctness:**

Charles Stanley Prentace
Deputy City Attorney